



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 13 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William Sherman
Owner
Burnette Foods, Inc.
87171 County Road 687
Hartford, Michigan 49057

Re: Expedited Settlement Agreement
Emergency Planning and Community Right-to-Know Act Section 312
Payment Docket No. EPCRA-17-ESA-015
Docket No. EPCRA-05-2017-0023

Dear Mr. Sherman:

Enclosed please find a copy of the fully executed EPCRA Section 312 Expedited Settlement Agreement and Final Order (ESA). The ESA is binding on EPA and Burnette Foods, Inc. EPA will take no further action against Burnette Foods, Inc. for the violations cited in the ESA. The ESA requires no further action on your part.

Please feel free to contact James Entzminger at (312) 886-4062, or Entzminger.james@epa.gov, if you have any questions regarding the enclosed document or if you have any other questions about EPCRA reporting. Thank you for your assistance in resolving this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael E. Hans".

Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 W. Jackson Boulevard
Chicago, IL 60604-3590

EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER

DOCKET NO: EPCRA-05-2017-0023
PAYMENT DOCKET NO: EPCRA-17-ESA-015

This Expedited Settlement Agreement is issued to:
Burnette Foods, Inc.
87171 County Road 687
Hartford, Michigan 49057



for alleged violations of Section 312 of the Emergency Planning and Community Right-To-Know Act.

The United States Environmental Protection Agency, Region 5, and Burnette Foods, Inc. ("Respondent") have agreed to the settlement of this action before the filing of a complaint. EPA and Respondent (jointly "the Parties") have agreed that settling this action without the filing of a complaint, or the adjudication of any issue of fact or law, is in their interest and in the public interest. This action is thus simultaneously commenced and concluded by this Expedited Settlement Agreement ("ESA") and Final Order. See 40 C.F.R. §§ 22.13(b) and 22.18(b)(2)-(3).

This ESA is an administrative action for the assessment of civil penalties instituted pursuant to EPA's authority under Sections 325 of the Emergency Planning and Community Right-To-Know Act (EPCRA), 42 U.S.C. § 11045. The Director of the Superfund Division, Region 5, EPA has been delegated the authority to issue an Administrative Complaint seeking the assessment of civil penalties for violations of Section 312 of EPCRA, 42 U.S.C. § 11022. The Regional Administrator for Region 5 of EPA is authorized to issue a Final Order, which concludes this matter pursuant to 40 C.F.R. § 22.18. The Regional Administrator has delegated the authority to issue Final Orders ratifying settlements pursuant to 40 C.F.R. §§ 22.13(b) and 22.18(b)(3) to the Regional Judicial Officer, Office of Regional Counsel, EPA Region 5.

ALLEGED VIOLATIONS

EPA alleges that Respondent, owner and/or operator of the facility at 87171 County Road 687, Hartford, Michigan, failed to timely submit a completed emergency and hazardous chemical inventory form (Tier I or Tier II form as described in 40 C.F.R. § 370.25 and 40 C.F.R. Part 370, Subpart D) for calendar years 2013-2016 as required by Section 312 of EPCRA, 42 U.S.C.

§ 11022, and the regulations at 40 C.F.R. Part 370. Under Section 312 of EPCRA, 42 U.S.C. § 11022, and the regulations at 40 C.F.R. Part 370, Respondent was required to submit its Tier I or Tier II form for calendar years 2013-2016 on or before March 1, 2014, March 1, 2015, March 1, 2016, and March 1, 2017, respectively.

SETTLEMENT

In consideration of factors including the nature, circumstances, extent, and gravity of the violations; Respondent's prior history of violations; and any other matters as justice may require, EPA and Respondent agree that an appropriate civil penalty to settle this action is \$5,000.00. In signing this ESA, Respondent: (1) admits that Respondent is subject to the requirements of Section 312 of EPCRA; (2) admits that EPA has jurisdiction over Respondent's conduct as alleged herein; (3) neither admits nor denies the factual allegation(s) contained herein; (4) consents to the assessment of this penalty; and (5) waives any right to request a hearing to contest any fact or allegation or appeal the final order contained herein. Respondent consents to, and is bound by, the terms and conditions of this ESA.

By its signature below Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that: (1) the alleged violation has been corrected; and (2) Respondent is submitting payment of the civil penalty as described below.

Respondent must send a cashier's check or certified check (payable to the "Treasurer, United States of America") in the amount of \$5,000.00 in payment of the full penalty amount to the following address:

U. S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

The payment docket number of this ESA **must be included on the check.** (The payment docket number is located at the top left corner of this ESA.)

This original ESA and a **copy of the check must be sent by certified mail to:**

James Entzminger
U.S. EPA Region 5
Superfund Division
Chemical Emergency Preparedness and Prevention Section
77 W. Jackson Boulevard, (SC-5C)
Chicago, IL 60604

Upon the issuance of the Final Order, Respondent's correction of the alleged violation, and confirmation of receipt of Respondent's payment of the civil penalty, Respondent's liability

is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA, the Final Order, and Respondent's full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of EPCRA or any other statute. The issuance of the Final Order does not waive, extinguish, or otherwise affect Respondent's duty to comply with EPCRA, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA with an attached copy of the check is not returned to the EPA Region 5 office at the above address in correct form by Respondent within 45 days of the date of Respondent's receipt of this ESA (90 days if an extension has been granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

Each Person signing this ESA and Final Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

FOR RESPONDENT:

Signature: William B. Sherman Date: 6-21-17

Name (print): William Sherman

Title (print): Owner

Name of facility: Burnette Foods, Inc.

FOR COMPLAINANT:


Margaret Guerriero
Margaret Guerriero, Acting Director
Superfund Division

Date: 6/30/2017

FINAL ORDER

This Expedited Settlement Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31.

It is so ORDERED.



Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Date: 3/11/17

In the Matter of: Burnette Foods, Inc., Hartford, Michigan
Docket No. EPCRA-05-2017-0023

Certificate of Service

I certify that I filed a true and correct copy of the foregoing Expedited Settlement Agreement,
which was filed on July 13, 2017 in the following manner to the
addressees:

Copy by Certified Mail

Return Receipt Requested: William Sherman
Burnette Foods, Inc.
87171 County Road 687
Hartford, Michigan 49057

Copy by E-Mail to

Attorney for Complainant Robert H. Smith
Smith.roberth@epa.gov

Copy by E-Mail to

Regional Judicial Officer Ann Coyle
Coyle.ann@epa.gov

Dated: July 13, 2017

L Whitehead
LaDawn Whitehead, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

CERTIFIED MAIL RECEIPT NUMBER(S): 7001 0320 0005 8922 0041